

# **EXHIBIT 1**



pattern of pervasive financial fraud and abuse by the Guin Defendants and others in which the Guin Defendants tried to conceal from the Decedent's family members by the filing of false and misleading "guardianship" reports with the Clerk of the Moore County Superior Court.

(See *Plaintiffs' Second Amended Complaint, paras. 17 through 46.*)

5. Plaintiffs' Complaint was filed with the U.S District Court in Greensboro, North Carolina, based upon the complete diversity of the parties and because the amount in controversy exceeded \$75,000.00, exclusive of interest and costs, pursuant to 28 U.S.C. § 1332(a).

(See *Plaintiffs' Second Amended Complaint, paras. 7 through 11.*)

6. Plaintiffs' original Complaint incorrectly identified my state of residence as being in Maryland, when in fact, I am a citizen of the State of Delaware. My business mailing address in Maryland was mistakenly and inadvertently set forth in the original Complaint as my state of residence.

7. On May 30, 2013, prior to any responsive pleading being filed thereto by any Defendant, the Plaintiffs amended their Complaint to correctly show that I am a citizen of the State of Delaware.

8. By way of history, I vacated my apartment in Columbia, Maryland on May 1, 2012 and have lived aboard my Motor Yacht(s) on a full-time basis as a citizen and domicile of the State of Delaware ever since. **Exhibit 2**, (See *State of Delaware Boat Certificate of Registration and Bill of Sale*).

9. Hence, the reason for the quick corrective filing of a 2<sup>nd</sup> Amended Complaint wherein my current registered address was properly noted.

10. Accordingly, because I am a citizen and domicile of the State of Delaware, there is complete diversity of citizenship between the parties to this lawsuit.

11. In July, 2006, the Decedent Audrey Marie Butler was 78 years of age and in generally in good health.

12. On February 28, 2006, the Decedent entered into a contract with St. Joseph of the Pines, Inc., a well-respected North Carolina-based provider of senior assisted living and nursing home facilities, whereby the Decedent had secured long term care and assisted living housing for

herself for the rest of the Decedent's life by means of the purchase of a unit at the St. Joseph of the Pines multilevel care facility in the Decedent's home town of Pinehurst, North Carolina, where many of the Decedent's friends planned to retire. **Exhibit 3**, (*See St. Joseph of the Pines Reservation Agreement*;

13. The contract with St. Joseph of the Pines assured the Decedent of having a comfortable, pleasant place to live out her remaining years at a fixed, reasonable cost of less than \$4,000.00 per month, regardless of the Decedent's needed level of need for care, be it independent, assisted living, or nursing home care. **Exhibit 3**, (*See St. Joseph of the Pines Reservation Agreement*).

14. In late July, 2006, the Decedent was in the company of the Guin Defendants and/or the other named defendants when the Decedent suffered catastrophic injuries to her head and femur from an alleged and unexplained fall at a Durham Bulls baseball game.

15. After the Decedent's injuries as described in the preceding paragraph, the Decedent suffered closed head injuries which left her completely unable to manage her affairs of daily living, or to communicate her thoughts and desires to others.

16. On or about late July, 2006, the Guin Defendants produced for the first time a Power of Attorney allegedly executed by the Decedent the preceding December, which the Guin Defendants had concealed from other family members. **Exhibit 4**, (*See Durable Power of Attorney of Audrey Marie Butler, dated December 22, 2005*).

17. In August, 2006, the Guin Defendants asserted complete control over the Decedent and her financial assets, and the Guin Defendants and the other named defendants took possession, custody, and control of all of the Decedent's financial records, checkbooks, credit cards, bank statements, and other documents, to the exclusion of Decedent's other family members.

18. On or about September, 2006, the Decedent possessed a liquid net worth of at least **\$756,142.47**, comprised of the following liquid assets with no liabilities whatsoever:

- i. **RBC Centura Checking Account, No. 502-301-343-3**, with a total balance of **\$244,909.94**, including cash of \$428.09, and reflecting Decedent's ownership of the following formal assets:

CD # 502-904-007-6	\$15,716.52
CD # 502-902-490-6	\$35,161.16
CD # 502-902-420-1	\$35,501.82
CD # 502-903-994-8	\$23,236.56
CD # 502-902-419-9	\$24,401.55
CD # 502-903-937-4	\$26,405.26
IRA 502-902-466-6	\$24,693.17
IRA 502-902-465-8	\$58,873.27
IRA 502-903-121-7	\$492.54

**Exhibit 5**, (See RBC Centura Account No. 502-301-343-3 Statement dated September 6, 2006)

ii. **RBC Centura Preferred Money Market Account**

No. 502-703-207-2                      \$105,530.49

**Exhibit 6**, (See RBC Centura Preferred Money Market Account No. 502- 301-343-3, September 6, 2006 Statement)

iii. **RBC Dain Rauscher IRA Accounts**

No. 1101-5402-1710                      \$112,902.24  
No. 1101-5411-3970                      \$ 45,761.38

**Exhibit 7**, (See RBC Dain Rauscher IRA Statement dated November 2006 for Accts Nos. No. 1101-5402-1710 & No. 1101-5411-3970.)

iv. **First Bank Operations Center**

Account No. 505000547                      \$16,038.27

**Exhibit 8**, (See First Bank Operations Center Statement dated September 25, 2006.)

v. **Promissory Note from Barbara M. & Oscar Gualteros**

Unpaid Note Balance as of July 5, 2013 - \$15,000.00 estimated

**Exhibit 9**, (See attached Promissory Note dated December 14, 1999 For \$3,000.00 plus interest @ 8.5% per Annum)

**vi. RBC Centura Bank Line of Credit**

Account No. 8100711148 - \$200,000.00

**Exhibit 10**, (See attached Statement from RBC Centura Bank dated May 26, 2006.)

**vii. Safe of Audrey Marie Butler in Pinehurst, North Carolina**

110 Ounces of Gold Bullion (Coins) \$154,605.00

(Pursuant to FRE 201, the Plaintiffs request that the Court take judicial notice of the fact that the market price of Gold was \$1405.50 per ounce on December 30, 2010)

**viii. Stocks owned by Audrey Marie Butler**

Government Securities & Bonds \$ 12,000.00  
Listed Securities \$184,000.00

**Exhibit 3**, (See the Financial Statement of February 28, 2006 prepared by Audrey Marie Butler for St. Joseph's of the Pines.)

19. In her own Financial Statement of February 28, 2006, the Decedent, Audrey Marie Butler declared the following Annual Income.

Social Security Retirement @ \$1,029.00 a month	\$12,348.00
Interest from Certificates of Deposit	\$ 8,000.00
Dividends from Stocks	\$ 2,000.00
<b>TOTAL ANNUAL INCOME</b>	<b>\$22,348.00</b>

20. When the Defendants, Patricia Guin and Regina Sriraman were appointed Joint Guardians of the incompetent ward, Audrey Marie Butler, on March 7, 2007, the following Court Orders limited their personal receipt of any funds from the Mrs. Butler's estate:

**Order of August 19, 2008 – A Room and Board allowance for the Guardians at their homes was established at \$750 per month from March 6, 2007 to August 31, 2008 and then, said allowance was increased to \$1,000 per month from September 1, 2008 to May 23, 2010 (date of death).**

Further, the Guardians were authorized the following Commissions for their complete care of the incompetent ward, Audrey Marie Butler, with any other expenditures i.e. unlicensed caretakers as well as the Commission of \$10,000 paid to the Interim Property Trustee, Co-defendant Theresa M. Butler, to be deducted from or paid out of these Commissions (*per statute*):

**Order of December 15, 2008 - \$10,921.60 (To be split evenly between them)**  
**Order of April 8, 2009 - 11,534.39 (To be split evenly between them)**  
**Order of May 9, 2010 - 12,000.00 (To be split evenly between them)**

21. The Joint Guardianship was in effect from March 6, 2007 to May 23, 2010 which was date of death of Audrey Marie Butler – a total of 39 months. During that period, based upon the above-described Court Orders, the Guardians were limited to the following annual expenditures, averaged out over the course of 12 months.

<b>Authorized Expenditure for Room and Board</b>	<b>\$10,615.38</b>
<b>Authorized Expenditure for Guardian Commissions</b>	<b>\$10,601.84</b>
<b>TOTAL AUTHORIZED ANNUAL EXPENDITURES</b>	<b>\$21,217.22</b>

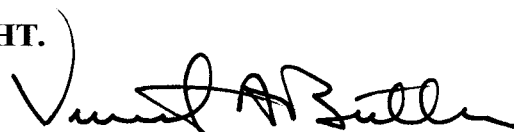
22. As is summarized above, there was enough income coming in to Audrey Marie Butler to pay for the room and board and Guardian's Commissions as approved by Court Order.

**NOTE: DURING THE PERIOD OF THE GUARDIANSHIP(S), THERE WERE NO OTHER APPLICATIONS TO THE COURT FOR THE APPROVAL OR AUTHORIZATION OF ANY OTHER EXPENDITURE OR COST !**

23. Based on the number of written checks and the declining balances reflected by the monthly Account Statements from RBC Centura, it is estimated that a minimum of \$756,000 was stolen, misappropriated or embezzled by the named Defendants during the period of August 15, 2006 to July, 2010 from the Estate of Audrey Marie Butler.

24. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

**FURTHER AFFIANT SAYETH NAUGHT.**



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**Plaintiff, Pro Se**

STATE OF Maryland  
COUNTY OF Howard

SS:

On the 11<sup>th</sup> day of July, 2013, the above-named affiant, Vincent A. Butler, personally appeared before me, a Notary Public, in and for the State and County aforesaid, after first being qualified by the presentation of a Government I.D., made oath in due form of law that the matters and facts set forth herein are true and correct.

My Commission Expires: 4/25/2015

  
NOTARY PUBLIC

